

Appl. No. 10/087,458
Amdt. dated December 27, 2005

REMARKS

This Amendment is made in response to the Notice of Non-Complaint Amendment received on December 21, 2005 and in response to the Official Action dated August 16, 2005. A two-month extension is included herein.

CLAIMS

Claims 27-48 are pending in the present application. Claims 31-33, 41, 45, and 48 are cancelled. Claims 27, 30, 34, 37-40, 42-43, and 46-47 are amended. Claims 49-54 are new.

INTERVIEW SUMMARY

Applicant thanks the Examiner for his time and consideration in the interview held on October 19, 2005. In the interview, Applicant's representative reviewed the subject invention and its advantages over conventional nail trimming devices, including its compact size and ergonomic design suitable for one-handed operation, its unique head shape and orientation, and its ability to trim nails effectively, particularly those of infants and small children, without damaging the soft tissues adjacent to the nail. The Ouchi and Kai references were discussed and Applicant's representative pointed out various aspects of the subject invention not disclosed by the references. However, in order to expedite prosecution, and without admitting to the propriety of the rejections over the cited art, Applicant proposed amending the claims to include a limitation that the head moves in a reciprocating motion through a fixed arc. The Examiner agreed that this was supported in the specification and was patentable over the art of record.

DRAWINGS

The drawings were objected to as failing to comply with 37 CFR 1.84(p)(4)-(5) for failing to label the same parts of the invention with the same reference character in different views, for including certain reference characters not in the specification, for having lines, number, and letters uniformly thick and well-defined, and for failing to label multiple views separately.

Applicant submits where different drawings pertain to different embodiments of the invention, the components may have different reference numbers even though such components may have similar structure or function to those of other drawings. In the present case, the various drawings portray different embodiments of the invention, and different reference numbers are therefore used for the components in each drawing. The drawings therefore comply with 37 CFR 1.84(p).

The specification has been amended to add the missing reference numbers indicated by the Examiner.

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As shown in the 4 pages of Replacement Sheets attached hereto, the drawings have been amended to label the different views of Fig. 4, 6, and 7 separately and to remove the text references in Fig 1. The "Brief description of the Drawings" in the specification has been amended accordingly.

In response to the Notice of Non-Complaint Amendment the drawings now include page numbers such that the replacement drawings may be more better identified as to which sheets are to be replaced.

Formal drawings addressing uniform line weight and other informalities will be submitted upon receipt of a Notice of Allowance.

SPECIFICATION

The specification was objected to as failing to provide antecedent basis for certain claimed subject matter. The Examiner asserted that the specification failed to adequately describe the "movable head having a size substantially smaller than the user's hand", and the "abrasive surface facing laterally relative to the longitudinal axis of the housing." While the size of the head relative to the user's hand is clearly shown in Fig. 1, in order to expedite prosecution Applicant has elected to delete this recitation from the claims. The orientation of the abrasive surface relative to the housing is clearly shown in Figs. 1 and 4 and described at page 6, lines 24-30. However, in order to expedite prosecution, all of the claims reciting that the abrasive surface faces laterally relative to the longitudinal axis have been canceled, without prejudice to prosecution in a separate or continuing application.

In response to the notice of non-complaint amendment the paragraphs to be amended are now provided.

CLAIM REJECTIONS

Rejections under 35 USC 112

Claims 37 and 39 were rejected for failing to comply with the written description requirement. The Examiner asserted that the specification did not provide support for the "switch positioned on the housing" as recited in claim 37 or the power supply being "replaceable" as recited in claim 39. Claim 37 has been amended to delete the recitation of the "switch" and claim 39 has been amended to delete the recitation that the power supply is "replaceable." Instead, claim 39 recites that the power supply comprises a "battery" described at page 3, lines 22-24, and page 4, lines 23-25.

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Claims 27, 28, and 30-48 were rejected for failing to comply with the enablement requirement. The Examiner asserted that the specification does not disclose the "selected motion, selected speed, grit and shock absorption that allows the abrasive surface to trim a person's nail while the epidermal tissue surrounding the nail remains unharmed if contacted by the abrasive surface." Without admitting to the propriety of the rejection, Applicant has deleted this claim language. The objections under 35 USC 112, second paragraph are thus overcome.

Rejections under 35 USC 102

Claims 27, 30, 32, 34, 35, 37, 38, and 40-48 were rejected under 35 USC 102(b) as being anticipated by Ouchi et al. Claims 37 and 39-42 were rejected under 35 USC 102(b) as being anticipated by Kai et al.

Rejections under 35 USC 103

Claim 28 was rejected under 35 USC 103(a) as being unpatentable over Ouchi et al. in view of La Jole et al. Claim 36 was rejected under 35 USC 103(a) as being unpatentable over Ouchi et al. in view of Daley. Claim 39 was rejected under 35 USC 103(a) as being unpatentable over Ouchi et al. Claims 27, 28, 30-35, 38 and 42-48 were rejected under 35 USC 103(a) as being unpatentable over Kai et al. in view of Cheney et al.

Response to Claim Rejections

As discussed with the Examiner in the interview summarized above, Applicant has amended all of the pending independent claims to include a limitation that the movable head "oscillate[s] through a fixed arc." New independent claim 51 has been added to more concisely claim the invention while still including the limitation that the movable head "oscillates through a fixed arc." As agreed by the Examiner, none of Ouch, Kai, Cheney, La Jole, or Daley, alone or in combination, discloses or suggests an abrasive surface that oscillates through a fixed arc so as to trim a person's nail as now claimed. Claims 27, 37, 42, 43, 47, and 51 are thus patentable over the art of record. Claims 28, 30, 34-36, 38-40, 44, 46, 49-50, and 52-54 are patentable as being dependent from claims 27, 37, 42, 43, 47 and 51, respectively.

Claim 51 further recites that the abrasive surface is adapted to "trim or smooth" a person's nail, as described in the specification at, e.g., page 4, line 6. In addition, dependent claims 30, 40, and 46 have been amended and claims 49 and 52 have been added to recite that the movable head "oscillates through an arc in the range of about 5 to about 180 degrees." Claim 34 has been amended and claims 50 and 53 added to recite that the movable

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head may oscillate in at least two motions, including oscillation and a second motion selected from rotational, lateral, and orbital motion. These limitations are clearly supported in the specification at page 3, lines 24-29, and at page 7, line 23 to page 8, line 2.

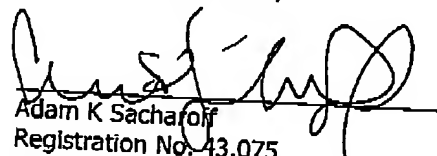
This application now being in a form for allowance, prompt action to that end is respectfully requested.

A return receipt postcard is enclosed. If the Examiner has any questions, please free feel to contact the undersigned at 312-521-2775.

Date: 12-27-2005

Respectfully submitted,

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